

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DONALD TRIMBLE,

Plaintiff,

vs.

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,

Defendant.

8:23-CV-161

ORDER

This matter is before the Court on the Magistrate Judge's findings and recommendation ([filing 20](#)) recommending that the plaintiff's motion for an order reversing the Commissioner's decision ([filing 10](#)) and the Commissioner's motion to remand ([filing 16](#)) be granted. Neither party has objected to the findings and recommendation. *See* [NECivR 72.2\(a\)](#).

Title 28 U.S.C. § 636(b)(1) provides for de novo review of a Magistrate Judge's findings or recommendations only when a party objects to them. *Peretz v. United States*, 501 U.S. 923 (1991). Failure to object to a finding of fact in a Magistrate Judge's recommendation may be construed as a waiver of the right to object from the district court's order adopting the recommendation of the finding of fact. [NECivR 72.2\(f\)](#). The parties were expressly advised that "failing to file an objection to this recommendation as provided in the local rules of this court may be held to be a waiver of any right to appeal the court's adoption of the recommendation." [Filing 20 at 9](#). And the failure to file an objection eliminates not only the need for de novo review, but any review by the Court. *Thomas v. Arn*, 474 U.S. 140 (1985); *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609 (8th Cir. 2009); *see also* *United States v. Meyer*, 439 F.3d 855, 858-59 (8th Cir. 2006).

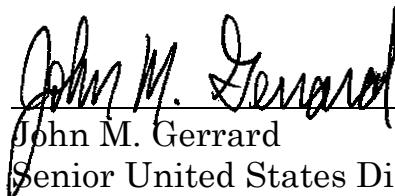
Accordingly, the Court will adopt the Magistrate Judge's recommendations, and any objection is deemed waived.

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation ([filing 20](#)) are adopted.
2. The plaintiff's Motion for an Order Reversing the Commissioner's Decision ([filing 10](#)) is granted.
3. The Commissioner's Motion to Reverse and Remand Pursuant to Sentence Four of [42 U.S.C. § 405\(g\)](#) ([filing 16](#)) is granted.
4. This case is remanded to the Commissioner pursuant to Sentence Four of [42 U.S.C. § 405\(g\)](#) for further proceedings before a different, constitutionally appointed administrative law judge.
5. A separate judgment will be entered.

Dated this 6th day of November, 2023.

BY THE COURT:



John M. Gerrard
Senior United States District Judge